



## OFFICIAL RESPONSES TO VENDOR QUESTIONS RFP-2020-DMS-01-DISPR

No.	Question	Answer
1.	<b>RFP Appendix B (Appendix B pages 1-4 and all Exhibits C - K).</b> Please clarify and confirm the following: (a) Please confirm that RFP Appendix B and all Exhibits C - K is provided for informational purposes only and to aid bidders in completing RFP Appendix A (Exceptions to Terms and Conditions). (b) Please confirm that RFP Appendix B (and all Exhibits C - K) does not need to be completed and signed and submitted with a bidder's proposal.	A) Appendix B, Exhibits C-K are samples of the contract documents.  B) Appendix B, Exhibits C-K do not need to be completed, signed nor submitted at this time.
2.	<b>RFP Section 3.1.9 (page 7).</b> Please confirm that the selected vendor will assist with any SPA changes and fiscal impact calculations for only the hospital DSH program.	Correct.
3.	<b>RFP Section 6.13 (page 16).</b> Will DHHS permit bidders to submit, along with their proposal submittal, a redacted version of its proposal on CD/thumb drive that DHHS may use in response to public records informational requests?	Yes. Please also submit a redacted version along with your proposal.

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4.	<p><b>Section 7.3.2.2.2 (page 24)</b></p> <p>This RFP requests audited financial statements for the four (4) most recently completed fiscal years.</p> <p>To reduce the environmental impact, would DHHS accept the required financial documents in the electronic submittal only?</p>	Yes.
5.	<p><b>General Question.</b></p> <p>a) What is the current budget for these services?</p> <p>b) What is the approved or allocated budget for these services going forward?</p>	<p>The current contract is \$72,080.04 for State Fiscal Year 2019.</p> <p>HB1 as passed by the Senate, the budget amount is \$75,000 for State Fiscal Year 2020.</p>
6.	<p><b>General Question.</b></p> <p>Given the numerous court decisions favorable to states that have not offset certain costs against payments made by entities other than uninsured individuals or state Medicaid Agencies, have all proposed disallowances or deferrals proposed by CMS and relating to the New Hampshire DSH program been resolved?</p> <p>(a) If said issues have not been resolved, please provide a copy of documentation from CMS, OIG, or any party claiming that DSH payments were incorrect, that hospital specific limits were exceeded, or that the Federal government is due DSH funds.</p>	<p>Prior year published audit reports show payments to hospitals, which are over the hospital-specific DSH limit in each year. Those audits were conducted with the application of FAQ 33 and 34. CMS withdrew those FAQs in light of four appellate court decisions in 2018. Guidance from CMS indicates States may choose whether or not to re-audit prior payments accordingly (see attached pdf "Updated FAQ"). New Hampshire plans to re-examine some prior years to determine appropriateness of payments. The Federal Government is not due DSH funds, as the New Hampshire law and State Medicaid Plan always requires a payment up to a budgetary cap, and would therefore require a redistribution among hospitals and not a recoupment of payments.</p>
7.	<p><b>General Question.</b></p> <p>What company has completed the DSH audits for New Hampshire in the past year?</p>	<p>Meyers and Stauffer LC has completed the DSH audits since 2005.</p>

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8.	<b>General Question.</b> Who is the current company engaged to provide New Hampshire with the CSM required DSH audit?	Meyers and Stauffer LC.
9.	<b>General Question.</b> For the current Company providing DSH audit services to the State, are the individuals providing service and representing themselves as employees of the Company all employees of the Company named in the contract, or is the State being provided services by individuals that are leased, loaned, or otherwise acquired by the Company from another company? (a) If the State of New Hampshire is being provided services by individuals employed by other than the Company named as providing DSH audit services, is the State able to identify, through invoices, business cards, or other representation, which individuals serving the State under the DSH audit contract are employees of the named Company and which are employees of some third party?	All individuals serving the State's contract are employees of the named company.
10.	<b>General Question.</b> Is there a subcontractor named in the contract between the Company currently hired to provide DSH audit services to the State of New Hampshire?	No subcontractor is named in the contract.

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11.	<b>General Question.</b> Does the State agree that if a CPA firm were selected to provide the services required in this procurement, the same CPA firm would obviously and unconditionally be conflicted from contracting with the State to audit the very same work, as the CMS rule clearly states that the entity conducting the DSH audit must be independent?	The State agrees.
12.	<b>General Question.</b> Are there any outstanding financial management review (FMR) reports from CMS, draft or final audit reports by the OIG, or matters of ongoing litigation between the State of New Hampshire and any party relating to the New Hampshire DSH program?	There are no outstanding reports from CMS, audit reports from OIG, or outstanding litigation to which the State is a party.
13.	<b>General Question.</b> Will the State please provide a list of the names of all hospitals receiving a DSH payment and the specific amount received by each or the past State fiscal year?	Yes, please see the attached pdf "DSH Payments."
14.	<b>General Question.</b> Is the state of New Hampshire currently expecting or entertaining any proposals to significantly change the way hospital DSH payments are distributed or funded?	No. The current funding and payment mechanisms are outlined in RSA 167:64.



# Medicaid Disproportionate Share Hospital (DSH) Payments

Federal law requires that state Medicaid programs make Disproportionate Share Hospital (DSH) payments to qualifying hospitals that serve a large number of Medicaid and uninsured individuals.

Federal law establishes an annual DSH allotment for each state that limits Federal Financial Participation (FFP) for total statewide DSH payments made to hospitals. Federal law also limits FFP for DSH payments through the hospital-specific DSH limit. Under the hospital-specific DSH limit, FFP is not available for state DSH payments that are more than the hospital's eligible uncompensated care cost, which is the cost of providing inpatient hospital and outpatient hospital services to Medicaid patients and the uninsured, minus payments received by the hospital on or on the behalf of those patients.

## DSH Audit and Reporting Requirements

For states to receive FFP for DSH payments, federal law requires states to submit an independent certified audit and an annual report to the Secretary describing DSH payments made to each DSH hospital.

The report must identify each disproportionate share hospital that got a DSH payment adjustment, and provide any other information the Secretary needs to ensure the appropriateness of the payment amount. The annual certified independent audit includes specific verifications to make sure all DSH payments are appropriate.

## Final Rule on DSH Audit and Reporting Requirements


On December 19, 2008, CMS published a final rule to implement federal law, specifying the elements for the required DSH report and the verifications required for the audit. CMS also developed additional guidance, including the [General DSH Audit and Reporting Protocol](#) (PDF 50.28 KB) and the [DSH Report Format](#) (PDF 17.88 KB) to help states meet statutory and regulatory requirements.

As of December 30, 2018, and in light of four recent appellate court decisions, the Centers for Medicare & Medicaid Services (CMS) is withdrawing FAQs 33 & 34 from the Medicaid DSH guidance that was issued in January 2010 titled "[Additional Information on the DSH Reporting and Audit Requirements](#) (PDF 268.22 KB)." As a result, FAQs 33 and 34 are no longer operative, and CMS will accept revised DSH audits that cover hospitals services furnished before June 2, 2017. Ultimately, whether or not a state submits revised DSH audits, CMS expects states to comply with 42 C.F.R. § 433.312(a), and expects that any overpayments identified in the audits will either be redistributed to other DSH-eligible hospitals in accordance with the applicable state plan, see 73 Fed. Reg. 77904 (Dec. 19, 2008), or that the federal portion will be refunded to CMS in accordance with the regulation. At this time, CMS does not intend to provide additional guidance regarding whether individual states should submit revised DSH audits. States are encouraged to review any applicable district court or appellate court decisions. See, *example, Tenn. Hosp. Ass'n v. Azar*, 908 F.3d 1029 (6th Cir. Nov. 14, 2018); *Children's Health Care v. CMS*, 900 F.3d 1022 (8th Cir. Aug. 20, 2018); *Children's Hosp. of the King's Daughters, Inc. v. Azar*, 896 F.3d 615 (4th Cir. July 23, 2018); *New Hampshire Hosp. Ass'n v. Azar*, 887 F.3d 62 (1st Cir. Apr. 4, 2018).

Hospital services furnished after June 2, 2017 are covered by a final rule issued by CMS on April 3, 2017 (Medicaid Program: Disproportionate Share Hospital Payments-Treatment of Third Party Payers in Calculating Uncompensated Care Costs), clarifying the treatment of third party payers in determining the hospital-specific Medicaid DSH payment limit. In light of the decision in *Children's Hosp. Ass'n of Texas v. Azar*, No. 17-cv-844 (D.D.C. March 2, 2018), *appeal docketed*, No. 18-5135 (D.C. Cir. May 9, 2018), CMS will not be enforcing the 2017 rule (published at 82 Fed. Reg. 16114 and codified at 42 U.S.C. § 447.299(c)(10)), as long as the *Children's Hospital Ass'n of Texas* decision remains operative in its current form. The government's appeal of that decision is pending at this time.


For any questions and concerns on this decision, please contact Wendy Harrison ([wendy.harrison@cms.hhs.gov](mailto:wendy.harrison@cms.hhs.gov)).

## **Final DSH Rule: Treatment of Third Party Payers in Calculating Uncompensated Care Costs**

On March 30, 2017, CMS issued a [final rule](#)  regarding Medicaid Disproportionate Share Hospital payments. This rule clarifies federal requirements regarding the treatment of third party payers in determining the hospital-specific Medicaid DSH payment limit, which is set by statute as a hospital's "uncompensated costs" incurred in providing hospital services to Medicaid and uninsured patients.

The final rule makes clearer our existing policy that uncompensated costs include only those costs for Medicaid eligible individuals that remain after accounting for all payments received by or on behalf of Medicaid eligible individuals, including Medicare and other third party payments. This is consistent with the statutory requirements governing Medicaid DSH and applicable limits.

## **Notice of Proposed Rulemaking: State Disproportionate Share Hospital Allotment Reductions**

On July 27, 2017, CMS issued a [notice of proposed rulemaking](#)  (NPRM) regarding Medicaid Disproportionate Share Hospital allotment reductions. This NPRM proposes a methodology to implement the annual reductions to state Medicaid DSH allotments for FY 2018 through FY 2025 as required by the Affordable Care Act. The proposed methodology relies on five factors identified in statute. Taking these factors into account for each state, the proposed methodology will generate a state-specific DSH allotment reduction amount for each fiscal year.

## **State-specific Annual DSH Reports and Independent Certified Audits**

State-specific annual DSH reports are available in the "Annual DSH Reports" section of this webpage. The reports are posted as submitted by states based on their availability and are arranged alphabetically by state under the corresponding State Plan RateYear (SPRY) heading.

Due to the size of the files and issues associated with electronic formatting, state-specific independent certified audits will be available only upon request. Interested parties should contact Richard Cuno ([Richard.cuno@cms.hhs.gov](mailto:Richard.cuno@cms.hhs.gov)) to request copies. In order to facilitate requests, the subject line should read "DSH Independent Certified Audit Request". In the body of the email, please provide specifics regarding the state and SPRY that you are requesting. Please be advised that the provision of the audits is subject to availability and does not constitute approval of their contents.

## Annual DSH Reports

The latest data are available on Data.Medicaid.gov:

[2013 Disproportionate Share Hospital \(DSH\) Payments](#)

[2013 DSH Payments: Report on Verifications](#)

Older data are available as zip files, which contain Excel files:

[SPRY 2012 DSH Reports](#) (ZIP 8.89 MB)

[SPRY 2011 DSH Reports](#) (ZIP 12.58 MB)

[SPRY 2010 DSH Reports](#) (ZIP 12.32 MB)

[SPRY 2009 DSH Reports](#) (ZIP 4.64 MB)

[SPRY 2008 DSH Reports](#) (ZIP 2.13 MB)

[SPRY 2007 DSH Reports](#) (ZIP 2.3 MB)

[SPRY 2006 DSH Reports](#) (ZIP 1.81 MB)

[SPRY 2005 DSH Reports](#) (ZIP 1.79 MB)

### Related Resources

[Policy Guidance - DSH Reports and Audit](#)

[Letters](#) (PDF 210.57 KB)

[Section 1902 of the Social Security Act](#) 

[Section 1923 of the Social Security Act](#) 

[Part 1: Additional Info on DSH Reporting  
& Audit Requirements](#) (PDF 268.22 KB)

[Part 2: Additional Info on DSH Reporting  
& Audit Requirements](#) (PDF 328.63 KB)



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## Disproportionate Share Hospitals

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### Related Sites

[Data.Medicaid.gov](#)

[CMS.gov](#) 

[HHS.gov](#) 

[Healthcare.gov](#) 

[InsureKidsNow.gov](#) 

[Medicare.gov](#) 

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**Medicaid.gov**  
Keeping America Healthy

**Centers for Medicare & Medicaid Services**



A federal government managed website by the  
Centers for Medicare & Medicaid Services.

7500 Security Boulevard Baltimore, MD 21244

## DHS Payments

LOCATION NAME AMOUNT  
AS LISTED ON

(AP10.2)

Alice Peck Day Hospital  
Androscoggin Valley Hospital  
Cottage Hospital Inc  
Franklin Regional Hospital  
Huggins Hospital  
Littleton Regional Healthcare  
MWV Healthcare Associates  
Monadnock Community Hospital  
New London Hospital Assn  
Speare Memorial Hospital  
Upper Connecticut Valley Hospi  
Valley Regional Hospital Inc  
Weeks Medical Center

DUE TO  
HOSPITAL  
\$ 7,297,568  
\$ 6,599,165  
\$ 3,930,612  
\$ 2,946,262  
\$ 3,006,739  
\$ 5,773,094  
\$ 7,152,557  
\$ 4,838,110  
\$ 3,131,341  
\$ 3,958,917  
\$ 4,014,097  
\$ 5,317,648  
\$ 3,099,075

LOCATION NAME AMOUNT  
AS LISTED ON

(AP10.2)

Cheshire Medical Center  
Catholic Medical Center  
Concord Hospital  
Elliot Hospital  
Exeter Hospital Inc  
Frisbie Memorial Hospital  
Lakes Region Family Practice  
Mary Hitchcock Memorial Hosp  
Parkland Medical Ctr  
Portsmouth Regional Hospital  
Southern NH Medical Center  
St Joseph Hospital  
Wentworth Douglass Hospital

DUE TO  
HOSPITAL  
\$ 7,435,868  
\$ 19,162,974  
\$ 15,975,786  
\$ 18,016,264  
\$ 5,208,320  
\$ 5,433,480  
\$ 8,191,668  
\$ 50,872,202  
\$ 3,398,714  
\$ 6,389,494  
\$ 10,284,949  
\$ 5,164,674  
\$ 9,097,376